

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

HOUSE BILL NO. 1732

By: Davis

AS INTRODUCED

An Act relating to property; amending 60 O.S. 1991, Section 74, which relates to estates in joint tenancy; providing for effect of certain instruments; prescribing method for creation of estate of joint tenancy; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 60 O.S. 1991, Section 74, is amended to read as follows:

Section 74. A. A joint interest is one owned by several persons in either real or personal property in equal shares, being a joint title created by a single instrument, will or transfer when expressly declared in the instrument, will or transfer to be a joint tenancy, or as between husband and wife a tenancy by entirety or joint tenancy as the grantor may elect, or when granting or devising to executors or trustees as joint tenants. A tenancy by entirety can only be created between husband and wife.

B. Such joint tenancy or tenancy by entirety may be created by transfer to persons as joint tenants or tenants by entirety from an owner or a joint owner to himself and one or more persons, or from tenants in common to themselves, or by coparceners in voluntary partition, and such estates may be created by or for persons who have elected to become bound under any community property act now in existence or which may hereafter be enacted. An adjudication of incompetency shall not operate to terminate such an estate.

C. Where a deed, transfer or conveyance grants an estate in joint tenancy or tenancy by entirety in the granting clause thereof, the granting clause shall control over the habendum clause containing language inconsistent to the granting clause.

D. For purposes of creating an estate in joint tenancy, it shall be sufficient for the instrument to use the single word "or" between the names of the grantees without additional language in order to establish the intent of the grantor to create an estate in joint tenancy. For purposes of creating an estate in joint tenancy for more than two grantees, it shall be sufficient to use the word "or" between the names of each of the grantees without additional language in order to establish the intent of the grantor to create an estate in joint tenancy. The provisions of this subsection shall be applicable to instruments executed on or after November 1, 1999.

E. In the event of the death of a joint tenant or tenant by entirety, leaving estate subject to probate, a certified copy of letters testamentary or of administration shall constitute prima facie evidence of such death.

F. The provisions of this act shall apply to all estates in joint tenancy or tenancy by entirety in either real or personal property heretofore or hereafter created.

G. Nothing herein contained shall prevent execution, levy and sale of the interest of the judgment debtor in such estates and such sale shall constitute a severance.

SECTION 2. This act shall become effective November 1, 1999.

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